

9/29/08

PATRICK E. DUFFY, CLERK

By Heidi Gauthier
Deputy Clerk

UNITED STATES DISTRICT COURT

HELENA DIVISION

District of

MONTANA

UNITED STATES OF AMERICA

JUDGMENT IN A CRIMINAL CASE

V.

DANIEL DIETZ

Case Number: CR 07-24-H-CCL-01

USM Number: 09894-046

Michael Donahoe

Defendant's Attorney

THE DEFENDANT:

☒ pleaded guilty to count(s) 1 and 2

☐ pleaded nolo contendere to count(s) _____
which was accepted by the court.

☐ was found guilty on count(s) _____
after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

Title & Section	Nature of Offense	Offense Ended	Count
18 USC 2242(b)	Coercion and Enticement of a Minor	7/31/2007	1
18 USC 1470	Transfer of Obscene Material to a Minor	7/31/2007	2

The defendant is sentenced as provided in pages 2 through 10 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

☐ The defendant has been found not guilty on count(s) _____

☐ Count(s) _____ ☐ is ☐ are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

9/23/2008

Date of Imposition of Judgment

Signature of Judge

CHARLES C. LOVELL

Name of Judge

SR USDC JUDGE

Title of Judge

9/25/2008

Date

DEFENDANT: DANIEL DIETZ
CASE NUMBER: CR 07-24-H-CCL-01

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of:

196 months as to Count 1, and 120 months as to Count 2, each term to be served concurrently, and both terms to be served concurrently with the sentence imposed by Lewis and Clark County District Court in Case No. ADC 2007-280.

☒ The court makes the following recommendations to the Bureau of Prisons:

At Def's request, the Court recommends that Def serve his sentence at FCI Schuylkill, which is close to Def's mother's residence in Pennsylvania, or FCI Allenwood. The Court recommends that Def be placed in a resident sex offender treatment program and the 500-hour residential drug treatment program and that Def receive mental health treatment.

☒ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshal for this district:

☐ at _____ ☐ a.m. ☐ p.m. on _____

☐ as notified by the United States Marshal.

☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

☐ before 2 p.m. on _____

☐ as notified by the United States Marshal.

☐ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____
at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

DEFENDANT: DANIEL DIETZ
CASE NUMBER: CR 07-24-H-CCL-01

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of :

10 years as to Count 1 and 3 years as to Count 2, both terms to be served concurrently.

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.

- ☐ The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)
- ☒ The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. (Check, if applicable.)
- ☒ The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable.)
- ☒ The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: DANIEL DIETZ

CASE NUMBER: CR 07-24-H-CCL-01

SPECIAL CONDITIONS OF SUPERVISION

1. Defendant shall participate in substance abuse treatment, substance abuse testing, mental health treatment, and sex offender treatment, all as directed by the United States Probation Office in its discretion. Substance abuse testing shall include not more than 104 urinalysis tests and not more than 104 breathalyzer tests annually during the period of supervision. Defendant may be required to pay all or part of the costs of treatment and/or testing, as directed by the United States Probation Office.
2. Defendant shall comply with Sexual Offender Registration requirements for convicted offenders in any state in which the Defendant resides.
3. Defendant is prohibited from having contact with the victim in this case without permission of the U.S. Probation Office and of the Court.
4. Defendant is prohibited from going to or loitering near schoolyards, parks, playgrounds, arcades, or other places primarily used by children under the age of 18.
5. Defendant shall not be allowed to reside in the home or residence of any child under the age of 18, or be in the company of any child under the age of 18, without prior approval of the United States Probation Office.
6. Defendant is prohibited from dating or socializing with anyone who has children under the age of 18, without the permission of the Probation Officer.
7. Defendant is prohibited from possessing any materials depicting sexually explicit conduct as defined in 18 USC 2256(2)(A)(i)-(v), including visual, auditory, telephone, or electronic media, and computer programs or services. Defendant shall not patronize any place where such material or entertainment is available. The Defendant shall not utilize 900 or adult telephone numbers or any other sex-related numbers.
8. Defendant shall not possess camera phones or devices that could be used for covert photography.
9. Defendant shall register in person as a sex offender with local/tribal/county law enforcement in the jurisdiction in which he resides, is employed, and is a student within three (3) business days of the Defendant's arrival in that jurisdiction.
10. Not later than three business days after a change of name, residence, employment, or student status, Defendant shall appear, in at least one jurisdiction in which he is required to register, to report such changes.
11. Defendant shall submit his person, property, house, residence, place of employment, vehicle, papers, computer, other electronic communication data storage devices or media, and effects, to search at any time, with or without a warrant, by any law enforcement or probation officer with reasonable suspicion concerning a violation of a condition of probation or unlawful conduct by the Def., and by any probation officer in the lawful discharge of the officer's supervision functions.
12. Defendant shall not possess or ingest alcohol and shall not enter establishments where alcohol is sold on a retail basis for consumption on the premises.
13. Defendant shall notify the U.S. Probation Office ten days prior to any change of address.
14. Defendant shall not possess any police radio scanning devices or possess any computer hardware or software that would enable the Defendant to monitor law enforcement activity.
15. Defendant shall not possess or use any computer or other device with access to any on-line computer service without the prior approval of the Probation Officer. This includes any Internet service provider, bulletin board system, or any other public or private computer network. The Defendant shall not have access to a modem during his term of supervision without the prior approval of the Probation Officer.
16. Defendant shall allow the Probation Officer to make periodic unannounced examinations of his computer, hardware, and software, which may include the retrieval and copying of all data from his computer.
17. Defendant shall maintain a complete inventory of his computer access, including but not limited to any bills pertaining to computer access, telephone bills used for modem access, or other charges accrued in the use of a computer, for review at the request of the Probation Officer.
18. Defendant shall not possess encryption or steganography software.
19. Defendant shall consent to third-party disclosure to any employer or potential employer concerning computer-related restrictions that are imposed upon him, unless excused by the Probation Officer.
20. Defendant shall provide a complete record of all passwords, Internet service providers, and user identifications (both past and present) to the Probation Officer, and Defendant shall not make any changes without the prior approval of the Probation Officer.
21. Defendant shall consent (and sign a consent form) to permit the Probation Officer to verify utility and telephone access services and bills (past and present) to his residence.
22. Defendant shall allow the Probation Officer to install on Defendant's computer or a computer used by Defendant (except a workplace computer) either filtering software that prevents Defendant from accessing prohibited web sites or any hardware or software systems to allow the Probation Officer to monitor Defendant's computer use, to examine the data and software applications, and to retrieve data from such activities.

DEFENDANT: DANIEL DIETZ
 CASE NUMBER: CR 07-24-H-CCL-01

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
TOTALS	\$ 200.00	\$ 0.00	\$ 3,524.01

☐ The determination of restitution is deferred until _____. An *Amended Judgment in a Criminal Case* (AO 245C) will be entered after such determination.

☐ The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
Donna Davison, P.O. Box 674, Helena, MT 59624	\$3,524.01	\$3,524.01	100%

TOTALS	\$ <u>3,524.01</u>	\$ <u>3,524.01</u>
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☐ Restitution amount ordered pursuant to plea agreement \$ _____

☐ The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

☒ The court determined that the defendant does not have the ability to pay interest and it is ordered that:

☒ the interest requirement is waived for the ☐ fine ☒ restitution.

☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:

* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: DANIEL DIETZ
CASE NUMBER: CR 07-24-H-CCL-01

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties are due as follows:

- A ☒ Lump sum payment of \$ 3,524.01 due immediately, balance due
- ☐ not later than _____, or
☒ in accordance ☐ C, ☐ D, ☐ E, or ☒ F below; or
- B ☐ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ F below); or
- C ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after the date of this judgment; or
- D ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E ☐ Payment during the term of supervised release will commence within _____ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F ☒ Special instructions regarding the payment of criminal monetary penalties:
- Defendant shall pay monetary penalties through the Inmate Financial Responsibility Program at the rate of not less than \$25.00 per quarter. Payments shall be made to the Clerk, United States District Court, 901 Front Street, Suite 2100, Helena, MT 59626. During the period of supervised release, Defendant shall pay monetary penalties at the rate of not less than 10% of his gross monthly income, or as otherwise directed by the U.S. Probation Office.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

☐ Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

- ☐ The defendant shall pay the cost of prosecution.
- ☐ The defendant shall pay the following court cost(s):
- ☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.